(S3)

HIGH COURT OF CHHATTISGARH AT BILASPUR

S.A. No.238/2007

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellants (Plaintiffs)

1. Maheshwar, S/o Madhusudhan, aged about 65 years, Occupation Agriculture R/o Vill.Malda, Tah & Distt. Raigarh (CG)
2. Laxman S/o Madhusudhan, aged about 55 years,
3. Panch Ram S/o Madhusudhan, aged about 40 years,
4. Purandhar S/o Madhusudhan, aged about 35 years.
5. Jageshwar S/o Kuber, aged about 35 years, R/o Village Malda Tah. & Distt. Raigarh.
6. Mohan S/o Kuber, aged about 40 years R/o Village-Malda, Tah & Distt. Raigarh (CG)
7. Madna S/o Kuber, agead about 40 years R/o Vill. Hardi Jharia, Tah. & Distt. Raigarh (CG)
8. Parshuram S/o Kuber, aged about 28 years R/o Village Malda, Tah. & Distt. Raigarh (CG)
9. Vaidin Bai D/o Kuber, aged about 25 years R/o Vill-Bunga, Tah. & Distt. Raigarh (CG)
10. Chand Kunwar Widow of Kubder aged about 75 years R/o Vill. Malda Tah. & Distt. Raigarh (CG)
11. Savitri D/o Rameshwar, aged about 35 years R/o Vill. Solhe Wona, Tah. & Distt. Raigarh (CG)
12. Sant Ram S/o Kartik Ram, aged about 23 years R/o Vill. Malda, Tah. & Distt. Raigarh
13. Nilawati D/o Rameshwar, aged about 32 years.
14. Malawati D/o Rameshwar, aged about 30 years
15. Shuruwali D/o Rameshwar, aged about 28 years
    S.No. 13 to 15 R/o Vill. Telipali, Tah. & Distt. Raigarh (CG)
16. Bhoj Bai D/o Rameshwar, aged

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about 20 years

17. Sita Bai Waidow of Rameshwar, aged about 50 years,
18. Tika Ram S/o Munnu, aged about 45 years

S.No.16 to 18 R/o Vill. Malda, Tah&b Distt. Raigarh (CG)

19. Set Kumar S/o Rameshwar, aged about 24 years R/o Vill. Ruchida, Tah&Distt. Raigarh.

All by caste-Teli and Occupation Agriculture.

Versus

Respondents

1. Raja Ram S/o Madhusudhan, aged about 40 years.
2. Chhabi Shankar S/o Madhusudhan, aged about 35 years.a

S.No. I R/o Vill. Malda, S.No.2 R/o Vill. Malda, Tah& Distt. Raigarh at present Naka Van Vibhag, Prem Nagar P.S. Prem Nagar Distt Sarguja (CG)

3. Nehru Lal S/o Jalindhar, aged about 40 years.
4. Sidar Singh S/o Haldhar, aged about 40 years.

A. Harimati Widow of Sidar Singh, aged about 55 years.
B. Radheshyam S/o Didar Singh, aged about 55 years.
C. Laxmi Narayan S/o Sidar Singh, aged about 32 years.
D. Uma D/o Sidar Singh, aged about 30 years.
E. Kamla D/o Sidar Singh, Wife of Ganesh, aged about 28 years.

All S.No. A to C are R/o Village Malda Tah&Distt. Raigarh (CG) S.No. (D) R/o Vuillage-Chantipali, Tah. Sarangarh S.No. (E) Village Datramuda, Tah&Distt.Raigarh

5. Sardha D/o Haldhar, aged about 45 years.

S.No. 3,5 R/o Vill. Malda, Tah. & Distt. Raigarh (CG)

6. Smt. Rupai Wife of Bhagat Ram, aged about 80 year R/o Vill. Uparipani, Tah& Distt. Raigarh.
7. Smt Basanta Wife of Sant Ram, aged about 45 years R/o Village

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Melwatoli (Khambharia) Tah.Gharghoda, Distt. Raigarh (CG)

8. Morga Wife of Ghurau, aged about 40 years R/o Village Dumarpali, Tah&Distt.Raigarh (CG)
9. Parkhit S/o Dukalu, aged about 75 years, R/o Village-Malda, Tah. & Distt. Raigarh (CG)
10 Shiv Prasad S/o Dukalu, aged about 65 years, R/o Vill. Malda, Tah. & Distt. Raigarh (CG)
11. Shobhana D/o Madhusudhan, aged about 72 years R/o Village Kenapali, Tah & Distt. Janjgir-Champa (Since dead) Legal Heirs:-

A. Nanhu Ram S/o Gopi Ram, agd about 80 years, occupation-Agriculture R/o Village Kenapali, Post Dhurkot, Tah. Dabhra, Distt. Janjgir-Champa (CG)

B. Bharat Lal S/o Nanhu Ram, aged about 55 years, Occupation-Service R/o Madhuvan Para, Raigarh Tah. & Distt. Raigarh (CG)

C. Shankar Lal S/o Nanhu Ram, aged about 50 years, Occupation Service (Electric Department), Kharsia, Tah. Kharsia, Distt. Raigarh (CG)

D. Shyam Lal Sahu S/o Nanhu Ram, aged about 40 years, Occupation Service (Electric Department), Chandrapur, Tah. Dabhra, Distt. Janjgir-Champa (CG)

12. Rewati Bai D/o Madhusudhan, age about 58 years, R/o Vill. Kasdole, Tah. Gharghoda, Distt. Raigarh (CG)
13. Rohan Mati D/o Madhusudhan, aged about 55 years, R/o Vill. Pandripani, Tah.& Distt. Raigarh (CG)
14. State of Chhattisgarh, Through: Collector, Raigah (CG)

Second appeal under Section 100 of the Code of Civil procedure.

Present:-
Shri M.K. Sinha, counsel for the appellants.
Shri Akhil AGrawal, PL for the State/respondent No.14.

ORAL JUDGMENT
(Passed on 23rd July, 2007)

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Heard on admission.

(2) The appellants are aggrieved by the judgment dated 28.3.2007 delivered by the 4th Additional District Judge (FTC) Raigarh in civil appeal No.6-A/2007 affirming the judgment and decree passed by the Civil Judge, Class-II, Raigarh in Civil Suit No.3-A/2001 dated 26.4.2001.

(3) Both the Courts have recorded a concurrent finding of fact that Late Rajkumari executed a will of the suit land in favour of the respondents on 28.12.1993 and therefore, the earlier will executed by Rajkumari on 14.8.1962 was inconsequential. This finding of fact recorded by both the Courts is a pure finding of fact. On this ground, both the Courts have declined to grant the relief of declaration of title over the suit land Kh.No.20 area 2.07 hectares situated in village Malda, Patwari Halka No.31 Tah. & Distt. Raigarh and ~~also for~~ declaring the will dated 28.12.1993 executed by Rajkumari in favour of the respondents/defendants as void. No substantial question of law arises for determination in this appeal.

(4) Accordingly, this second appeal is dismissed at the stage of admission. No order as to costs.

(5) In view of the above, I.A. No.1, for grant of stay also stands disposed of.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Priya